IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

OP.No. 9167 of 2003(N)

PETITIONER:

JACOB KURUVILLA, VALAYATHIL HOUSE,
THAMPALAKKADU KARA, KANJIRAPALLY VILLAGE,
KOTTAYAM DISTRICT.

BY ADV. SRI.E.X.JOSEPH (SR.)
SRI.T.R.RAJAN

RESPONDENTS:
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1. THE DEPUTY TAHSILDAR (RR),
KANJIRAPPALLY TALUK, KANJIRAPPALLY.

2. THE KERALA STATE HOUSING BOARD,
REPRESENTED BY ITS SECRETARY, HOUSING BOARD,
THIRUVANANTHAPURAM.

3. THE ACCOUNTS OFFICER, KERALA STATE
HOUSING BOARD, BRANCH OFFICE, PUTHANANGADY,
KANJIRAPPALLY, KOTTAYAM DISTRICT.

BY ADV. SRI.T.R.HARIKUMAR, SC, KSHB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON 23/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.15967/2003 IN O.P. NO.9167/2003

DISMISSED:

23.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE MEMORANDUM OF APPEAL IN A.S. NO.12/03.

P2: TRUE COPY OF THE NOTICE DT.3.3.03 ISSUED IN FORM NO.1.

P3: .DO. FORM NO.10.

P4: TRUE COPY OF OBJECTION DT.15.3.03.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.9167 of 2003

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Dated this the 23rd day of March, 2007.

JUDGMENT

The only plea is limitation against recovery proceedings for recovery of ineligible benefit availed by the petitioner under the Mithri Housing Scheme. Limitation has to be decided based on facts i.e. date of accrual of liability, initiation of proceedings for recovery and application of limitation with reference to the nature of amount sought to be recovered. The O.P. is disposed of directing the first respondent to decide petitioner's claim of limitation and proceed for recovery only if recovery is within time limit. If the funds are from Government, then the first respondent should consider limitation with reference to the clause applicable to debt due to Government. The petitioner will produce copy of this judgment for the first respondent to consider the issue before proceeding with recovery further. If petitioner does not produce copy of this judgment and loan scheme and appear within two months from today, first respondent can proceed for recovery ignoring petitioner's claim.

C.N.RAMACHANDRAN NAIR
Judge

pms